

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1225-AIR-E TCEQ ID: RN102304086 CASE NO.: 34310**  
**RESPONDENT NAME: Ysleta Independent School District**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Ysleta ISD, 7944 Yermoland Drive, El Paso, El Paso County</p> <p><b>TYPE OF OPERATION:</b> Gasoline dispensing station</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 28, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Arturo Villanueva, Warehouse Crew Leader, Ysleta Independent School District, 7944 Yermoland Drive, El Paso, Texas 79907  Mr. Marco Marquez, Director, Maintenance and Warehouse, Ysleta Independent School District, 7944 Yermoland Drive, El Paso, Texas 79907  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> June 1, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 10, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failure to comply with the 7.0 pounds per square inch absolute ("psia") maximum Reid Vapor Pressure ("RVP") requirement for gasoline transferred during the control period of June 1, 2007 through September 16, 2007 in El Paso County. Specifically, gasoline samples taken during the June 1, 2007 investigation from Pump No. 4 South Tank indicated that the unleaded gasoline had a RVP exceeding the allowable maximum 7.0 psia [30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$1,340</p> <p><b>Total Deferred:</b> \$268  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,072</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days of the effective date of this Agreed Order, establish and implement a process which will ensure the RVP for gasoline dispensed between June 1<sup>st</sup> and September 16<sup>th</sup> of each year shall not exceed 7.0 psia at the Station; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): EE1018R



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

DATES

Assigned

16-Jul-2007

PCW

24-Jul-2007

Screening

23-Jul-2007

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent Ysleta Independent School District

Reg. Ent. Ref. No. RN102304086

Facility/Site Region 6-El Paso

Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 34310

Docket No. 2007-1225-AIR-E

Media Program(s) Air

Multi-Media

No. of Violations 1

Order Type 1660

Enf. Coordinator Nadia Hameed

EC's Team EnforcementTeam 5

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$1,000

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 24% Enhancement Subtotals 2, 3, &amp; 7 \$240

Notes Penalty enhancement due to one 1660 Order and two non-similar NOV's.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes The Respondent does not meet the good faith criteria.

0% Enhancement\*

Subtotal 6 \$0

Total EB Amounts \$122  
Approx. Cost of Compliance \$600

\*Capped at the Total EB \$ Amount

## SUM OF SUBTOTALS 1-7

Final Subtotal \$1,240

## OTHER FACTORS AS JUSTICE MAY REQUIRE

8%

Adjustment \$100

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes Recommended upward adjustment to recover economic benefit of avoided costs.

Final Penalty Amount \$1,340

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$1,340

## DEFERRAL

20%

Reduction

Adjustment -\$268

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

## PAYABLE PENALTY

\$1,072

Screening Date 23-Jul-2007

Docket No. 2007-1225-AIR-E

PCW

Respondent Ysleta Independent School District

Policy Revision 2 (September 2002)

Case ID No. 34310

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102304086

Media [Statute] Air

Enf. Coordinator Nadia Hameed

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an Intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 24%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Penalty enhancement due to one 1660 Order and two non-similar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 24%

<b>Screening Date</b> 23-Jul-2007		<b>Docket No.</b> 2007-1225-AIR-E		<b>PCW</b>	
<b>Respondent</b> Ysleta Independent School District				<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 34310				<small>PCW Revision June 26, 2007</small>	
<b>Reg. Ent. Reference No.</b> RN102304086					
<b>Media [Statute]</b> Air					
<b>Enf. Coordinator</b> Nadia Hameed					
<b>Violation Number</b>		<div style="border: 1px solid black; width: 100px; text-align: center;">1</div>			
<b>Rule Cite(s)</b>		<div style="border: 1px solid black; padding: 5px;">30 Tex. Admin. Code § 115.252(2) and Tex. Health &amp; Safety Code § 382.085(b)</div>			
<b>Violation Description</b>		<div style="border: 1px solid black; padding: 5px;">Failed to comply with the 7.0 pounds per square inch absolute ("psia") maximum Reid Vapor Pressure ("RVP") requirement for gasoline transferred during the control period of June 1, 2007 through September 16, 2007 in El Paso County. Specifically, gasoline samples taken during the June 1, 2007 investigation from Pump No. 4 South Tank indicated that the unleaded gasoline had a RVP exceeding the allowable maximum 7.0 psia.</div>			
<b>Base Penalty</b>					<div style="border: 1px solid black; width: 100px; text-align: right;">\$10,000</div>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>Harm</b>					
<b>Release</b>		Major		Minor	
Actual		<div style="border: 1px solid black; width: 100px; height: 20px;"></div>		<div style="border: 1px solid black; width: 100px; height: 20px; text-align: center;">x</div>	
Potential		<div style="border: 1px solid black; width: 100px; height: 20px;"></div>		<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	
<b>Percent</b>					<div style="border: 1px solid black; width: 100px; text-align: right;">10%</div>
<b>&gt;&gt; Programmatic Matrix</b>					
Falsification		Major		Minor	
<div style="border: 1px solid black; width: 100px; height: 20px;"></div>		<div style="border: 1px solid black; width: 100px; height: 20px;"></div>		<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	
<b>Percent</b>					<div style="border: 1px solid black; width: 100px; text-align: right;">0%</div>
<b>Matrix Notes</b>		<div style="border: 1px solid black; padding: 5px;">Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.</div>			
<b>Adjustment</b>					<div style="border: 1px solid black; width: 100px; text-align: right;">\$9,000</div>
					<div style="border: 1px solid black; width: 100px; text-align: right;">\$1,000</div>
<b>Violation Events</b>					
<b>Number of Violation Events</b>		<div style="border: 1px solid black; width: 100px; text-align: center;">1</div>		<b>Number of violation days</b>	
		<div style="border: 1px solid black; width: 100px; text-align: center;">52</div>			
<small>mark only one with an x</small>					
daily		<div style="border: 1px solid black; width: 100px; height: 20px;"></div>			
monthly		<div style="border: 1px solid black; width: 100px; height: 20px;"></div>			
quarterly		<div style="border: 1px solid black; width: 100px; height: 20px;"></div>			
semiannual		<div style="border: 1px solid black; width: 100px; height: 20px;"></div>			
annual		<div style="border: 1px solid black; width: 100px; height: 20px;"></div>			
single event		<div style="border: 1px solid black; width: 100px; height: 20px; text-align: center;">x</div>			
<b>Violation Base Penalty</b>					<div style="border: 1px solid black; width: 100px; text-align: right;">\$1,000</div>
One single event is recommended.					
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<div style="border: 1px solid black; width: 100px; text-align: right;">\$122</div>		<b>Violation Final Penalty Total</b>	
				<div style="border: 1px solid black; width: 100px; text-align: right;">\$1,340</div>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					<div style="border: 1px solid black; width: 100px; text-align: right;">\$1,340</div>

**Economic Benefit Worksheet**

Respondent Ysleta Independent School District

Case ID No. 34310

Reg. Ent. Reference No. RN102304086

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$500	1-Jun-2007	19-Jan-2008	0.6	\$16	n/a	\$16
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of implementing procedures to ensure the required Reid Vapor Pressure is maintained. Date required is the investigation date and the final date is the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$100	1-Jun-2007	16-Sep-2007	1.2	\$6	\$100	\$106

Notes for AVOIDED costs

Estimated cost avoided by dispensing and utilizing gasoline having a RVP greater than 7.0 psia. Date required is the investigation date and the final date is the last day of the control period with RVP requirements.

Approx. Cost of Compliance

\$600

TOTAL

\$122

# Compliance History

Customer/Respondent/Owner-Operator: CN600893531 Ysleta Independent School District Classification: AVERAGE Rating: 3.41  
 Regulated Entity: RN102304086 YSLETA ISD Classification: AVERAGE Site Rating: 5.45  
 ID Number(s): INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD988079893  
 GENERATION  
 INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 80939  
 GENERATION (SWR)  
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE1018R  
 PETROLEUM STORAGE TANK REGISTRATION 56008  
 REGISTRATION  
 Location: 7944 YERMOLAND DR, EL PASO, TX, 79907 Rating Date: 9/1/2006 Repeat Violator: NO  
 TCEQ Region: REGION 06 - EL PASO  
 Date Compliance History Prepared: July 23, 2007  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: July 23, 2002 to July 23, 2007  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: NNameed Phone: 713-767-3629

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A Effective Date: 11/02/2003 ADMINORDER 2003-0541-AIR-E  
 Classification: Moderate  
 Citation: 30 TAC Chapter 114, SubChapter D 114.100[G]  
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to ensure that fuel dispensed during the control period of October 1, 2002 to March 31, 2003 had the minimum oxygen content of 2.7%.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 08/10/2002 (3522)
- 2 12/11/2002 (17134)
- 3 12/13/2002 (18975)
- 4 05/23/2003 (29975)
- 5 10/20/2003 (252248)
- 6 07/27/2004 (284331)
- 7 06/20/2005 (379766)
- 8 05/31/2006 (465108)
- 9 06/13/2006 (457860)
- 10 07/18/2006 (484677)
- 11 11/14/2006 (517344)
- 12 05/01/2007 (558633)
- 13 06/28/2007 (557874)
- 14 07/09/2007 (565162)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/24/2005 (379766)

Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.245(2)		
Description:	Failed to verify proper operation of the stage.II equipment at least once every twelve months.		
Date	06/13/2006	(457860)	
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.51(b)(2)(C)[G]		
Description:	Failure to ensure that the UST system was equipped with overfill prevention equipment.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 334, SubChapter A 334.10(b)[G]		
Description:	Failure to provide the following records at the time of the investigation: 1) verification of the presence of overfill prevention for the UST system, 2) annual line tightness test results, and 3) line leak detector annual test results.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)		
Description:	Failure to ensure that USTs were numbered according to the Registration Form.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)		
Description:	Failure to ensure that shear valves were anchored for the pressurized piping within the dispensers.		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
YSLETA INDEPENDENT SCHOOL  
DISTRICT  
RN102304086

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2007-1225-AIR-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ysleta Independent School District ("Ysleta") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Ysleta appear before the Commission and together stipulate that:

1. Ysleta owns and operates a gasoline dispensing station at 7944 Yermoland Drive in El Paso, El Paso County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Ysleta agree that the Commission has jurisdiction to enter this Agreed Order, and that Ysleta is subject to the Commission's jurisdiction.
4. Ysleta received notice of the violations alleged in Section II ("Allegations") on or about July 15, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ysleta of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Three Hundred Forty Dollars (\$1,340) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Ysleta has paid One Thousand Seventy-Two Dollars (\$1,072) of the



administrative penalty and Two Hundred Sixty-Eight Dollars (\$268) is deferred contingent upon Ysleta's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Ysleta fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Ysleta to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Ysleta have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Ysleta has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Station, Ysleta is alleged to have failed to comply with the 7.0 pounds per square inch absolute ("psia") maximum Reid Vapor Pressure ("RVP") requirement for gasoline transferred during the control period of June 1, 2007 through September 16, 2007 in El Paso County, in violation of 30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 1, 2007. Specifically, gasoline samples taken during the June 1, 2007 investigation from Pump No. 4 South Tank indicated that the unleaded gasoline had a RVP exceeding the allowable maximum 7.0 psia.

## **III. DENIALS**

Ysleta generally denies each allegation in Section II ("Allegations").



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Ysleta pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Ysleta's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ysleta Independent School District, Docket No. 2007-1225-AIR-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that Ysleta shall undertake the following technical requirements:
  - a. Within 30 days of the effective date of this Agreed Order, establish and implement a process which will ensure the RVP for gasoline dispensed between June 1<sup>st</sup> and September 16<sup>th</sup> of each year shall not exceed 7.0 psia at the Station; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Environmental Health Manager  
El Paso City-County Health Environmental District  
5115 El Paso Drive  
El Paso, Texas 79905



3. The provisions of this Agreed Order shall apply to and be binding upon Ysleta. Ysleta is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If Ysleta fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Ysleta's failure to comply is not a violation of this Agreed Order. Ysleta shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ysleta shall notify the Executive Director within seven days after Ysleta becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Ysleta shall be made in writing to the Executive Director. Extensions are not effective until Ysleta receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Ysleta in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Ysleta, or three days after the date on which the Commission mails notice of the Order to Ysleta, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.





## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Srdlien  
\_\_\_\_\_  
For the Executive Director

1/23/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Arturo Villanueva  
Signature

10/30/07  
Date

Arturo Villanueva  
Name (Printed or typed)  
Authorized Representative of  
Ysleta Independent School District

Warehouse Crew Leader  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Marco Marquez 10-30-07  
MARCO MARQUEZ, Director  
Maintenance and Warehouse  
YISD

